

# California Ocean Plan Exception for Storm Water and Nonpoint Sources with Special Protections for ASBS

State Water Resources Control Board  
Ocean Unit, Division of Water Quality  
March 20, 2012

# Public Resources Code

- **State Water Quality Protection Areas (SWQPAs)**
  - designated to protect marine species and communities from an undesirable alteration in natural water quality
  - waste discharges shall be **prohibited or limited by the imposition of special conditions**
- **Areas of Special Biological Significance (ASBS)**
  - **special subset** of SWQPAs and require **special protection** as determined by the State Water Board pursuant to the California Ocean Plan



# Ocean Plan - Areas of Special Biological Significance (ASBS), Program of Implementation, Section III(E)(1):

“Waste\* shall not be discharged to” ASBS. “Discharges shall be located a sufficient distance” from ASBS to “assure maintenance of **natural water quality conditions.**”

*\* Waste is defined: “includes a discharger’s total discharge, of whatever origin...”*





# Ocean Plan Exceptions

- State Water Board must:
  - Comply with CEQA
  - Protect (“not compromise”) beneficial uses
  - Assure that the public interest is served
- Subject to Triennial Review



# CEQA Compliance

- Project is a “General” Exception (selected storm water and nonpoint source discharges) with Special Protections for ASBS
  - 27 applicants
- Draft Final Program Environmental Impact Report (PEIR)
  - Presented to the Board at October 18, 2011 Meeting
  - Board Direction at October Meeting: review and complete Response to Comments and PEIR
- Final PEIR
  - Includes final, completed CEQA Response to Comments
  - Submitted to State Clearinghouse March 5, 2012



# Alternatives to General Exception

- No Action - continue with Enforcement:
  - In most cases compliance means either ceasing operations or diverting discharges, sometimes miles away, with serious impacts
- Amend Ocean Plan to allow waste discharges under certain special conditions:
  - Lengthy process, uncertain outcome, not enough information currently to craft a permanent amendment acceptable to all parties.
  - In the meantime, discharges continue unabated? or aggressive enforcement?
- Adopt Exception/Special Protections:
  - **Staff Recommendation - pragmatic approach to controlling discharges now while working toward a potential Ocean Plan amendment in the future**





# Preferred Alternative, General Exception with Special Protections for ASBS

- Does not compromise, and in fact **better protects, beneficial uses**
  - Available science: water quality in ASBS is generally good, but natural ocean water quality is sometimes not met for certain constituents at some of the runoff sites
  - Special Protections require that natural water quality must be maintained using an accelerated iterative approach including structural BMPs on priority discharges
- Assures that the **public interest is served**
  - e.g., highways and roads, flood control, waterfront facilities, parks and recreation facilities, military facilities



# General Exception/ Special Protections

- Prohibits most non-storm flows
- Allows clean storm water runoff
- Requires monitoring
- Implementation of Special Protections via permit
  - Storm Water NPDES Permits: Caltrans, Phase 2 MS4, Industrial General Permit, also Regional Board Phase 1 MS4
  - Nonpoint Sources: WDRs or Conditional Waivers
  - Permits may not allow ASBS discharges without the Exception





# General Exception/ Special Protections

- Accelerated iterative process - discharger prepares a Compliance Plan
  - Non-structural and Structural BMPs identified
  - Lower threat discharges will not need to install structural BMPs
  - Higher threat discharges to be prioritized for structural BMPs
    - Reasonably foreseeable BMPs identified in the PEIR



# General Exception/ Special Protections

- Monitoring for larger discharges ( $> 18$  inches)
  - Multiple lines of evidence, includes chemistry, toxicity and biological monitoring
  - Core Water Quality Monitoring for Runoff
  - Receiving Water - Individual or Regional Alternatives
  - Reference Stations - proxies for Natural Water Quality
- Compliance in receiving water - must meet “Natural Water Quality”
- Based on monitoring results, Compliance Plan and BMP prioritization to be adjusted



# Special Protections: Compliance Schedule

- Beginning of first storm season: initiate monitoring
- One year: Submit Compliance Plan
- Eighteen months: Implement non-structural controls
- Four years:
  - Structural controls implemented
  - Extensions may be allowed for delays due to good cause (permitting constraints or budget issues)
  - Dischargers must meet natural water quality





# Board Direction to Staff (October 2011):

Make only those minor changes and clarifications necessary to clarify intent of Special Protections

- Changes prepared and circulated for public comment, Feb. 7, 2012
- Clarification that natural streams through a culvert are allowed
- Compliance Plans (NPDES), Pollution Prevention Plans (NPS) and Waterfront Plans – clarification regarding approval where applicable by State Executive Director or Regional Board Executive Officer
- Clarification on consideration and use of LID approaches
- Define “good cause” for extensions of the compliance deadlines
- Structural BMP relief for health and safety reasons



# February 2012 edits continued:

- Allowable US Navy island discharges better described
- Monitoring edits
  - Moved up to first storm season
  - Better consistency between runoff and ocean water sampling and constituents
  - Clarification and better definition on regional monitoring and reference sites
  - Clarification when certain monitoring components may be reduced or suspended
- Compliance with natural water quality clarified terminology (exceedance instead of violation), and better consistency between text and flowchart
- Changes and additions to the definitions in the glossary



# Supplemental Comments on Edits

- Letters from thirteen commenters, received by February 21, 2102 deadline
- Staff prepared responses to supplemental comments, circulated March 9, 2012
- Change Sheet is based on consideration of supplemental comments, minor changes to provide better clarifications





# Change Sheet

- Further clarifications to LID language
- Clarification on BMP design target language
- Edit on compliance language in Compliance Plan and Pollution Prevention Plan Sections
- Further clarifications to good cause language
- Further clarifications and consistency on monitoring language
- Further clarifications on design storm definition



# Staff Recommends that the Board

- Certifies the PEIR
- Adopt the Exception, including the recent edits in the Change Sheet
- Directs Staff to investigate an Ocean Plan amendment, as part of the next Triennial Review, to address storm water and nonpoint source discharges into ASBS



# State Water Board Funding to Municipalities

## ASBS Grants Program

- Administered by Division of Financial Assistance
- Prop 84 bond funds
- \$32 million for local public agencies to comply with the waste discharge prohibition or otherwise improve water quality in ASBS
- Includes set-aside for monitoring
- The Board has approved a list of Projects recommended for funding

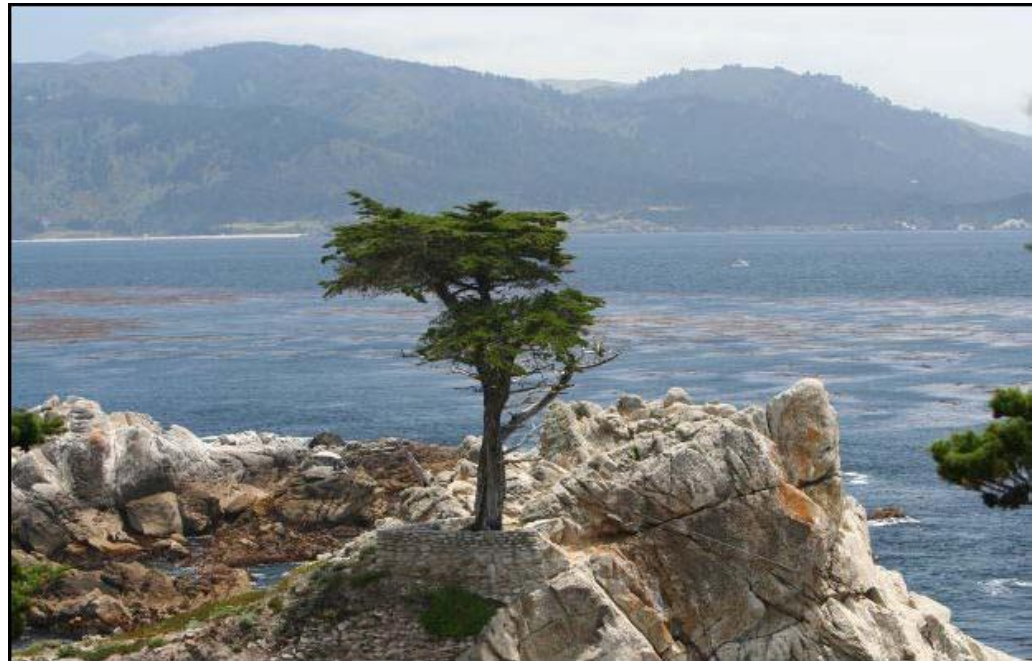




# Prop 84 Grants Projects

## 14 AGREEMENTS:

- ✓ **City of San Diego**, La Jolla ASBS Protection Implementation Program, \$2.5 million
- ✓ **City of Laguna Beach**, Heisler Park ASBS, \$2.5 Million
- ✓ **City of Newport Beach**,  
Newport Coast ASBS Protection Implementation Program, \$2.5 Million
- ✓ **City of Malibu**, [2] Wildlife Road Treatment and ASBS Outreach, \$540 thousand and Broad Beach Road Biofiltration, \$2.25 million
- ✓ **County of Los Angeles**, Septic System Replacement Program at Zuma and Pt. Dume Beaches, \$2.5 Million



- ✓ **City of Pacific Grove**, Urban Runoff Diversion Phase 3, \$2.4 million
- ✓ **City of Carmel-by-the Sea**, Carmel Bay ASBS Projects, \$2.5 million
- ✓ **City of Trinidad**, [2] Trinidad Pier Reconstruction, \$2.5 million, and Trinidad Head ASBS Storm Water Management Improvement Project, \$2.5 million
- ✓ **Marin County**, Duxbury Reef ASBS and Point Reyes Headlands ASBS Source Control Project, \$1.7 million
- ✓ **San Mateo County**, James V Fitzgerald ASBS Pollution Reduction Program, \$2.5 million
- ✓ **San Mateo RCD**, Reducing Nutrient, Pathogen and Sediment Pollution from Livestock, \$923 thousand
- ✓ **SCCWRP**, Assessing the Effectiveness of Prop 84 ASBS Grants, \$1,050,000, Assisting with Reg. Monitoring Design & Implementation
- ✓ **Three projects withdrew leaving \$3.6 million available**



# Staff Requests Direction from the Board

- Staff recommends that we use up to \$1 million from the Prop 50 Coastal Nonpoint Source (CNPS) program for additional ASBS Regional Monitoring, starting in the Fall of 2012
- Staff recommends that we use leftover CNPS funds (approximately \$10 million) in conjunction with the remaining prop 84 ASBS funds (\$3.6 million) for additional ASBS BMP projects



**QUESTIONS?**



The following slide is provided only if questions come up about the boundary of the ASBS in the vicinity of Monterey





**ASBS**